

BEFORE THE

OHIO E.P.A.

OHIO ENVIRONMENTAL PROTECTION AGENCY

JUN - 1 2016

ENTERED DIRECTOR'S JOURNAL
In the Matter of:

Alliance Ventures, Inc.
1840 W. State Street, Suite B
Alliance, Ohio 44601

:
:
:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Alliance Ventures, Inc. ("Alliance") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Alliance and successors in interest liable under Ohio law. No change in ownership of the facility (as hereinafter identified) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Alliance owned the former Handel's Ice Cream building located at 1896 West State Street in Alliance, Stark County, Ohio. In addition, Alliance also owned a vacant BP gas station located at 1886 West State Street in Alliance, Stark County, Ohio. Katich Construction ("Katich"), with office located 745 Lands End Land in Dearfield, Ohio, was contracted by Alliance to demolish the vacant BP gas station in March, 2013 and the former Handel's Ice Cream building on or before December 23, 2014. Each of the above-referenced commercial structures constituted a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18). Alliance was an "owner" by OAC Rule 3745-20-01(B)(39). Katich was an "operator" by OAC Rule 3745-20-01(B)(39). Each of above-referenced projects involved a "demolition," as defined in OAC Rule 3745-20-01(B)(13).

2. Pursuant to OAC Rule 3745-20-02(A) requires, in part, the owner or operator of any demolition or renovation operation shall have the affected facility or part of the facility where a demolition or renovation operation will occur thoroughly inspected by a certified asbestos specialist prior to the commencement of the demolition or renovation for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material as defined in OAC Rules 3745-20-01(B)(9) and 3745-20-01(B)(10).

3. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a demolition operation involving a facility to submit a written notice of intention to demolish ("Notification") to Ohio EPA at least ten working days prior to the start of the demolition if the project is as described in OAC Rule 3745-20-02(B)(1).

4. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704.

5. On March 1, 2013, Canton City Health Department, Air Pollution Control Division ("CCHD"), Ohio EPA's contractual representative in Stark County, inspected the vacant BP filling station and observed that the building had been demolished. Since Notification was not submitted for the above-referenced demolition, Alliance and Katich were in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

6. On March 7, 2013, Alliance submitted to CCHD the asbestos survey and the Notification for the vacant BP filling station. The asbestos survey indicated that there were no asbestos-containing materials associated with the former commercial structure. On March 19, 2013, CCHD issued a notice of violation ("NOV") letter to Alliance and to Katich for the violation of notification requirement that was documented on March 1, 2013.

7. On December 24, 2014, CCHD inspected the former Handel's Ice Cream and observed that the building had been demolished. Since Notification was not submitted for the demolition of this commercial structure, Alliance was in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G). Also, since there was no asbestos evaluation performed by an asbestos specialist prior to the commencement of the demolition, Alliance was in violation of OAC Rule 3745-20-02(A) and ORC § 3704.05(G).

8. On December 30, 2014 and January 26, 2015, CCHD issued a NOV letter to Alliance and to Katich for the violations that were documented during the December 24, 2014 inspection.

9. On January 8, 2015, Alliance submitted to CCHD the Notification for the demolition of the former Handel's Ice Cream.

10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Alliance shall pay a combined total amount of six thousand dollars (\$6,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for six thousand dollars (\$6,000) of the total amount (split to Funds 6960 and 6A10). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Canton City Health Department
Air Pollution Control Division
420 Market Avenue North
Canton, Ohio 44702-1544
Attn: Terri A. Dzienis

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Jim Kavalec, Manager,
Compliance and Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent all reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

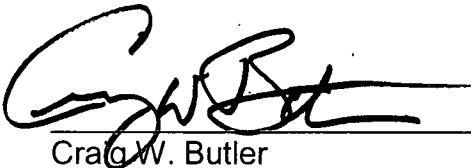
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

5/27/16

Date

AGREED:

Alliance Ventures, Inc.



Signature

5/18/16

Date

TODD MASTROLONNI

Printed or Typed Name

Vice President

Title